IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 113 of 2000

Date of decision: 16.7.2007

State of H.P. **…Appellant.**

Versus

Satya Devi and another **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the appellant : Mr. Ashok Chaudhary, Addl. A.G.

For the respondent : Mr. K.D. Sood with Mr. Sanjeev Sood, Advocates.

Surjit Singh, Judge(Oral)

Heard and gone through the record.

2. Respondents were sent up for trial for offences punishable under Sections 435 and 506 read with Section 34 of the Indian Penal Code for allegedly intimidating their sister-in-law (Jethani or Devrani) Smt. Raj Kumari (PW-1) and then setting some hay, stacked by her in front of her house, on fire. Trial Court has acquitted both the respondents holding that the case does not stand proved beyond reasonable doubt.

3. Raj Kumari the alleged victim, appeared as PW-1 to testify that on the relevant date, i.e. 7.1.1996, around 10.00 in the morning when she was cooking meals, the two respondents started hurling abuses and intimidating her and threatened that she should leave the house as it belonged to Sukh Ram, their father-in-law. She further stated that around 3.30 p.m. she went to inform the Member Panchayat Shri Rattan Lal (PW-

---

Whether reporters of the local papers may be allowed to see the judgment?

4-A) and when she returned around 5.00 p.m., she noticed that the stack of grass had been reduced to ashes. She stated that on enquiry her two female children, named Indu and Bandu informed that the respondents had set the grass on fire. One of the two children was examined by the prosecution. She is Ms. Bandu (PW-2). She stated that on 1.7.1996 (sic, the alleged incident as per prosecution story had taken place on 7.1.1996) the respondents came to their house and set the stack of hay on fire when her mother was not there. She stated that her mother returned at 7.00 in the evening and enquired as to how the grass was burnt and she and her sister told that the two respondents had set it on fire.

4. The testimony of PW-1 Raj Kumari as also PW-2 Bandu is contradictory to the earliest version, which was given to the police vide FIR Ext. PW-1/A. In the FIR it was got recorded that Indu and Bandu had told PW-1 Raj Kumari that the grass had been set on fire by Satya Devi. However, in the Court the two witnesses have named Jagtamba also besides Satya Devi, as the perpetrators of the crime.

5. Again, while Raj Kumari says that she had been intimidated during day time on the relevant day, PW-2 Bandu denies the suggestion to this effect put to her in the cross-examination. Further, while PW-1 Raj Kuimari says that she had gone to PW-4-A to complain about the incident of hurling of abuses and intimidation, which had taken place earlier in the day around 10.00 a.m., PW-2 Bandu says that she had gone to the bazaar to buy goods. Again, according to Raj Kumari, she returned home at 5.00 p.m. but Bandu says she returned at 7.00 p.m.

6. It has come in evidence that there are 5-6 houses around the place of occurrence. Nobody from those houses has been examined to seek corroboration to the testimony of PW-2 Bandu, who admittedly was five or six years old at the relevant time and, therefore, prone to being tutored.

7. In view of the above stated position, the view taken by the trial Court that the case of the prosecution does not stand established beyond reasonable doubt cannot be said to be perverse. Consequently the appeal is dismissed.

July 16, 2007 (BC) **(Surjit Singh)**
Judge